

just say this: The Armed Services Committee—we have this bill on the floor right now, and it has taken us too long, and it has caused us to not be able to have the hearings we probably would have had—but we are going to have more hearings on what happened in Abu Ghraib prison. Already people are being tried and convicted and sentenced for misbehavior there. We are going to keep on, and the higher up it goes, they are going to be followed.

I was a former prosecutor for some time, and I will ask anybody in this body to tell me: If a soldier is charged with committing an abuse on a prisoner, and he was ordered to do so, or there was some written document he was relying on to do this abuse, do you think he is not going to produce it? Do you think he is not going to say that in his defense? Certainly, he will. So if there are any higher-ups involved in this, it is going to come out.

But, frankly, I do not see the evidence that any higher-ups in the higher echelons of the Government ever issued any orders in any way that would have justified this. It did not happen at any time except on a midnight shift by a few people, who videoed themselves, videoed themselves in circumstances that would be very embarrassing to their mamas and daddies if they had seen it, I can tell you that, on their own behavior, much less what they were doing to the prisoners.

So I do not think it was a pattern. I do not think it was a policy. In fact, all the evidence we have seen so far shows it was not. Within 2 days of this information coming forward to the commanders in that region, General Sanchez ordered an investigation. He suspended people. The military announced publicly, in a public briefing in Iraq, that they were conducting an investigation of abuses at Abu Ghraib prison.

They have continued those investigations. A number of people have been charged criminally by the military. A number of them have had their cases end with punishments being imposed, and others will have them as time goes by. I would say, what more can you ask them to do? They are cracking down. I do not appreciate resolutions such as this that suggest it was a policy of the United States that this occurred, that suggest that our American soldiers are the same as Saddam Hussein's soldiers and prison guards—the way they treated their prisoners. It is not right. It is wrong. It should not be said, and it undermines the confidence that we ask the world and the Iraqis to have in our soldiers.

We believe they are going to do good work. We believe they are doing good work. We know, when you have 100,000, 200,000 soldiers over there, some of them will make mistakes. Just like any city in America that has 200,000 citizens, 130,000 citizens, some of them are going to commit crimes and make errors and do things wrong. They ought to be disciplined. They ought to be held

accountable. But we do not need to fire the mayor because somebody commits a crime on the streets of the city.

Mr. President, I see the Senator from Arizona is in the Chamber, and I know he may well have comments to make on this or other issues.

I will conclude by saying this is not a good resolution. It has no business here. It is contrary to what we ought to be doing.

We ought to be spending our time on how to help our military get a handle on this problem in Abu Ghraib, and we ought to be spending our time mostly on trying to help them be effective in dealing with, capturing, and killing the terrorists who reject all rules of law, who reject all Geneva Conventions, who believe they have a legitimate right to advance their personal power agenda by killing innocent people whenever and wherever they can.

I am most grateful that we have American soldiers this very moment following the vote of this Congress and executing the policy we ask them to execute in Iraq to further freedom and liberty around the world.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Arizona.

EXEMPTIONS TO BILATERAL TRADE AGREEMENTS

Mr. KYL. Mr. President, I am going to talk about an amendment which I would have offered to the Defense authorization bill, but in the interest of time and to ensure that we can move the bill forward and complete work on that bill this evening, I am not going to do so.

But I would like to discuss the general subject of the amendment, and begin by complimenting the chairman of the Armed Services Committee, the Senator from Virginia, on recognizing the very important necessity of changing our law to help work very closely with two of our greatest allies, the United Kingdom and Australia.

We transfer a lot of technology back and forth between these two important allies. It is important that we have the capability of doing that. One of the amendments I believe will be adopted as part of this Defense authorization bill is a proposal of the distinguished chairman that would provide an exemption from U.S. law which requires that a bilateral agreement covering a specified set of issues be negotiated in order for a country to obtain an export control waiver. The bilateral agreements between the United States and the United Kingdom and Australia don't quite meet the standard set by U.S. law, so Congress needs to grant an exemption for this. The chairman's amendment is very important in creating this possibility. I strongly associate myself with that amendment.

Just a note or two about this relationship between the United Kingdom and Australia and the United States which illustrates why it is so impor-

tant for us to have this kind of cooperation. I think everybody knows the United Kingdom is our strongest ally in the war on terror. In addition to the over 8,000 personnel they have provided for the military operation, they support food aid. They have contributed a tremendous amount of money for reconstruction. Everyone is aware of their contribution. Perhaps less well known is the contribution that the Australian defense force has made. They contributed about 2,000 of their personnel, including a squadron of FA-18s and special forces elements, two navy frigates. They have a full variety of operations that I won't get into here. They have also been cooperative with us in a lot of other areas such as missile defense programs, and so on.

It is for this reason that the chairman offered his proposal, which I am sure will become part of the Defense bill, that will make it easier for us to transfer equipment that is important to defense between the United States and Great Britain and Australia.

The amendment I was going to offer simply added or would have added another element to that. We won't do it in this bill. Perhaps in conference with the House or at some other point, we could do that.

It is an amendment that would make sure that in the transfer of important munitions between the United States and a country such as Great Britain, they would never get into the wrong hands. That is to say, they wouldn't be exported to a country that might potentially use them against the United States. The reason it is a problem is that some countries in Europe, for example, are talking about lifting the arms embargo that currently exists between those countries, the United States, and China.

We do not send China our most sophisticated military equipment. There is a good reason for that. China has announced plans that it is developing military equipment that could directly compete with the United States in military conflict. So, obviously, we don't want to have a law on the books that would make it easy for a country such as China to acquire military equipment that we share freely with our allies, such as Australia and the United Kingdom, but which we would not want to go to a country such as China.

That is the reason for my concern about this retransfer issue. The news reports have indicated, for example, that the United Kingdom might agree to support the lifting of the European Union's arms embargo against China. That would be an important event. What my amendment would have done is simply said if the European Union were to lift its arms embargo against China, then no U.S. military equipment could be transferred to entities in the European Union unless the President certified to Congress that there are binding assurances from those entities that our military equipment would

not be transferred to China. That is a pretty reasonable proposition.

The State Department strongly opposes the European Union's lifting of the arms embargo. Secretary of State Colin Powell said the following on March 1:

Regarding arms sales to China, I expressed concern that the European Union might lift its arms embargo. We and the European Union imposed prohibitions for the same reasons, most especially China's serious human rights abuses, and we believe that those reasons remain valid today.

It is this government's policy that the arms embargo remain in effect. We are talking about military arms now, not trade. We have a huge amount of trade with China. We are not talking about that. We are talking about limiting certain kinds of militarily useful equipment.

At a February hearing of the U.S.-China Economic Security Review Commission, the Deputy Assistant Secretary in the State Department for East Asian and Pacific Affairs, Randy Shriver, also expressed U.S. opposition to the European Union's lifting of the embargo for three key reasons: the human rights reason, China's lax export control policies, and China's military buildup against Taiwan. Similar concerns have been put forth by Department of Defense officials.

While we don't like to talk about it, there has been a change in the direction of the buildup of the Chinese military. They have changed their doctrine to a doctrine which explicitly is designed to be able to defeat U.S. military assets. They are proliferating dangerous weapons and technologies to some of our potential adversaries—North Korea, as one example.

The intelligence community produces a semiannual report on proliferation. The most recent report stated the following with respect to China:

We cannot rule out . . . some continued contacts [related to assistance to unsafeguarded nuclear facilities] subsequent to the pledge between Chinese entities and entities associated with Pakistan's nuclear weapons program.

. . . Chinese entities continued to work with Pakistan and Iran on ballistic missile-related projects during the first half of 2003 . . . Chinese-entity ballistic missile assistance helped Iran move toward its goal of becoming self-sufficient in the production of ballistic missiles. In addition, firms in China provided dual-use missile-related items, raw materials, and/or assistance to several other countries of proliferation concern—such as Iran, Libya, and North Korea.

During the first half of 2003, China remained a primary supplier of advanced and conventional weapons to both Pakistan and Iran. Islamabad also continued to negotiate with Beijing for China to build up to four frigates for Pakistan's navy and develop FC-1 fighter aircraft.

China also continues to threaten democratic Taiwan and to prepare militarily for a conflict against not only Taiwan, but also against the United States, were U.S. military forces to come to the assistance of Taiwan directly.

According to one recent Washington Post article, the Chinese Government

warned Taiwan's President Chen Shui-bian to pull back what he called "a dangerous lurch toward independence or face destruction."

The Defense Department's annual report to Congress on the military power of the People's Republic of China warned

. . . the focus of China's short and medium term conventional modernization efforts has been to prepare for military contingencies in the Taiwan Strait, to include scenarios involving U.S. intervention.

According to a previous report, the U.S.-China Security Review Commission, now the U.S.-China Economic and Security Review Commission, China's military was directed to have viable options to retake Taiwan by 2005 to 2007. Let me repeat: China's military was told to be prepared for conflict with Taiwan by next year.

The DOD report further comments on the impact of the EU lifting its arms embargo stating:

Efforts under way to lift the European Union embargo on China will provide additional opportunities to acquire specific technologies from Western suppliers.

That is precisely the problem I think we have to come to grips with at some point. I am extraordinarily supportive of efforts to show political support for and, in fact, enhanced military cooperation with our allies, as the Warner amendment certainly does. But I also think we have to look at the export control policies which might, were the European Union to lift the arms embargo, allow material weapons implications to reach a country such as China. We obviously cooperate with China on matters of trade, for example. And it plays an important role in the international community. But it is a country with 20 nuclear-tipped missiles capable of reaching the United States, and the Pentagon projects that number will reach 30 by next year.

It is a country that has an announced policy that would be very dangerous if implemented with respect to Taiwan. So if the EU lifts its arms embargo, European countries will have the capacity to willingly pass military technology, and U.S. military technology, if we don't have the proper transfer or retransfer protections in place to a country that presents a potential military threat to the United States.

My amendment would have prevented that from happening by simply saying that no U.S. military equipment could be provided to countries in the European Union unless there is a Presidential certification that there are binding assurances from such country that those goods won't be transferred to China.

I don't think that is too much to ask. I think at some point we are going to have to include that within our law. The chairman of the committee has been very gracious in talking to me about working toward that end. As I said, I think in view of the great importance of moving this bill forward, completing action on it so we can pro-

vide the authority for the Defense Department and the other forces necessary for the next year, I am not going to offer my amendment. I certainly hope at an appropriate time we will be able to include the concept of what I am talking about in this Defense authorization bill.

I compliment the chairman for the work he has done, and I express my hope we can conclude this bill soon. We have been on it now for almost a month, or half a month with respect to legislative days. I think it is time to come to an agreement on how to end debate and get it done. After all, we are in a war. We have to protect the American people and provide for the men and women we have put into harm's way for that purpose.

Mr. WARNER. Mr. President, I thank our distinguished colleague from Arizona. He has been part of the team that has worked almost every day for agreements on the floor, and in consultation on how to deal with the various challenges we have had. He has been one of many who has made it possible. I think we are making steady progress here. I thank the Senator for the reference to the ITAR amendment, which I put in. I consulted with him, Senator BIDEN, and a great many Senators who worked with me in making this amendment possible, which is currently a part of the managers' package and, I anticipate, will become part of the final bill. It is long overdue, as the Senator points out. But this amendment is sort of a keystone. I thank the Senator for adding that very important piece of legislative history to what I hope will be a statutory provision that reflects the goals we both had in mind.

At this time, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I don't know the situation regarding this bill.

The PRESIDING OFFICER. The Senate is in morning business.

Mr. WARNER. The bill is still actively being considered. There is a possibility we can achieve completion of the bill tonight. I remain of that view.

Mr. STEVENS. Mr. President, are we in morning business?

The PRESIDING OFFICER. Yes, we are in morning business.

DEFENSE APPROPRIATIONS

Mr. STEVENS. Mr. President, I have come to the floor because I am worried about the Defense appropriations bill. This bill that has been prepared by primarily Sid Ashworth and Charlie Houy of our Defense Subcommittee, under the direction of my cochairman Dan Inouye and myself, was considered by the Subcommittee on Defense Appropriations and reported to the full committee in 17 minutes. We took it to the full committee and we had a debate on that bill. It was reported to the floor in 25 minutes.

The reason for that is, as we all know, there is in this bill an amount of